

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHNNY CYRUS,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-40231-NMG
)	
DAVID L. WINN, et al.,)	
Defendants.)	

JOHNNY CYRUS,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-40244-NMG
)	
DAVID L. WINN, et al.,)	
Defendants.)	

PROCEDURAL ORDER

For the reasons set forth below, plaintiff is granted additional time to inform the Court whether he wishes (1) to proceed with these civil rights actions and be assessed, pursuant to 28 U.S.C. § 1915(b)(1), payments towards the \$150.00 filing fee for each action or (2) to voluntarily dismiss these actions without assessment of the filing fee.

BACKGROUND

Now before the Court are two civil rights actions that were filed by plaintiff Johnny Cyrus, while incarcerated at FMC Devens. In each action, plaintiff alleges, among other things, that the defendants took action against plaintiff in retaliation for his filing Cyrus v. Fernandez, et al., C.A. No. 03-40083-WGY

(stayed pending exhaustion of administrative remedies).

The first action was filed on September 24, 2003 and was assigned Civil Action No. 03-40231-NMG. The second action was filed on October 22, 2003, and was assigned Civil Action No. 03-40244-NMG.

A Clerk of this Court has discovered that plaintiff was transferred from FMC Devens and is now incarcerated at the Medical Center for Federal Prisoners in Springfield, Missouri.

Because plaintiff is incarcerated, he is advised that pursuant to 28 U.S.C. § 1915(b)(1), prisoners are required to pay the full amount of the filing fee. If plaintiff wishes to proceed with these actions, the Court will allow plaintiff's applications to proceed without prepayment of fees, and will direct the appropriate prison official to withhold from his prison account and pay to the court an initial payment towards the \$150.00 filing fee for each action. The appropriate prison official will also be directed to collect from plaintiff's prison account on a continuing basis each month until such time as the \$150.00 statutory filing fee is paid in full for each action. Plaintiff is further advised the actions are subject to preliminary screening pursuant to 28 U.S.C. §§ 1915, 1915A.

The Court is cognizant of the fact that plaintiff has been transferred and may have lost interest in pursuing the claims asserted in these two actions. Because the Court has not yet

ruled on plaintiff's applications to proceed without prepayment of fees, plaintiff ^{may}/prefer to voluntarily dismiss these actions without assessment of the filing fee.


CONCLUSION

Based upon the foregoing, plaintiff is granted forty-two (42) days from the date of this Memorandum and Order to inform the Court whether he wishes (1) to proceed with these civil rights actions and be assessed, pursuant to 28 U.S.C. § 1915(b)(1), payments towards the \$150.00 filing fee for each action OR (2) to voluntarily dismiss these actions without assessment of the filing fee.

The Clerk is directed to send plaintiff a copy of the complaints filed in each action.

SO ORDERED.

Dated at Worcester, Massachusetts, this 20th day of May, 2004.



NATHANIEL M. GORTON
UNITED STATES DISTRICT JUDGE